

and Part 151 regulations are satisfied, but cautions that where particular factors are important to both assessments, the Part 151 analysis should be completed simultaneously. The decisions, however, are separate. The Checklist expressly provides that a positive determination under Section 20 “does not constitute a final decision to acquire the land under Part 151.”⁶³

2. DOI Experience and Procedures for Reviewing Gaming Applications

In May 1998, Kevin Gover, the current Assistant Secretary for Indian Affairs, testified that, since the enactment of IGRA in 1988, only 10 applications to take off-reservation land into trust for gaming purposes had been forwarded to the Bureau of Indian Affairs central office for consideration.⁶⁴ Of these 10 applications, the Secretary made a positive two-part finding under Section 20(b)(1)(A) in five cases:

- the 1990 approval of a request by the Forest County Potawatomi Tribe of Wisconsin to take land into trust in Milwaukee;
- the 1992 approval of a request by the Siletz Tribe to take land into trust in Salem, Ore.;

⁶³IGRA specifically provides that it does not “affect or diminish the authority and responsibility of the Secretary to take land into trust [under IRA].” 25 U.S.C. § 2719(c) (1988). Several DOI employees interviewed noted that, at the time the Hudson application was under consideration, there was no statutory or regulatory guidance as to whether DOI should first determine whether the tribe’s request satisfies IGRA and then determine whether to take the land in trust under IRA or vice versa. George Skibine, the Director of the IGMS of the BIA beginning in February 1995, believed that information was to be gathered simultaneously for both determinations, but that DOI had to determine first that it would take the land into trust under IRA before determining whether it would permit gaming on those lands.

⁶⁴Statement of Kevin Gover, Assistant Secretary-Indian Affairs, Department of the Interior, before the Committee on Indian Affairs, United States Senate, on Proposed Amendments to Section 20 of the Indian Gaming Regulatory Act of 1988 in S.1870, the Indian Gaming Regulatory Improvement Act of 1998, at 5. *See* Section II.B.1., *infra* (discussing procedure for applications).